

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 690 of 1998

in

APPEAL FROM ORDER No 69 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and Sd/-

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

KAMLABEN D/O NARANBHAI NANJIBHAI PARMAR

Versus

LALITKUMAR RATILAL PARMAR

Appearance:

MR SG UPPAL for Petitioners

MR BN RAVAL for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE D.H.WAGHELA

Date of decision: 16/12/1999

ORAL JUDGEMENT (Per R.K.Abichandani, J.)

The petitioners seek initiation of contempt proceedings against the respondent on the ground that the respondent has violated the directions of this Court contained in its order dated 9.3.1998 in the Appeal from Order No.69 of 1998. By that order, the order of interim injunction granted by the trial Court was modified and it is recorded that the learned counsel for the respondent did not object to the modification of the order to the extent mentioned by the Court. The interim injunction of the trial Court, which was granted in terms of paragraphs 7 (a) and 7 (b) of the application, was ordered to continue until disposal of the suit except to the extent that the present respondent, who was the appellant therein, was permitted to carry out necessary repairs of the terrace of the building in question either by laying a new terrace or repairing the existing one without affecting the shape of the existing structure in any manner. According to the present applicants, the respondent has violated the order of the High Court by removing roof, staircase and flooring of the property. It will be seen from the order dated 9.3.1998 of the High Court that it was stated before the Court that, as the property in question was in a dilapidated condition and there was seepage of water through roof the present respondent may be permitted to carry out repair works in the suit premises only to the extent of repairing the terrace either by laying down new terrace or repairing the existing one. It is not the petitioners' case that the respondent has violated the injunction restraining him from transferring or alienating the property. In view of the modification done by the High Court permitting repairs of the terrace either by laying a new one or repairing the existing one, the action alleged does not appear to be in contravention of the permission granted by the modification of the order. We do not find any clear basis for initiating contempt action against the respondent. It appears that Civil Suit No.3346 of 1997 is pending in the Civil Court. Should there be any violation of any interim orders granted under Order 39 Rules 1 & 2, the appropriate course will be to approach that Court under Order 39 Rule 2-A of the Code of Civil Procedure. This application is therefore rejected. Rule is discharged with no order as to costs.

(KMG Thilake)

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